

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
RAMESH SESHAN,)	
Petitioner,)	
)	
v.)	Civil No. 4:20-11663-DHH
)	
STEPHEN SPAULDING,)	
Respondent.)	
_____)	

ORDER FOR REASSIGNMENT AND REPORT AND RECOMMENDATION

November 6, 2020

Hennessy, M.J.

For the reasons set forth below, the undersigned orders that this action be REASSIGNED to a District Judge for further proceedings, and makes RECOMMENDATIONS to the District Judge to whom the case is assigned, as follows.

I. **BACKGROUND**

Pro se petitioner Ramesh Seshan, an inmate at FMC Devens, filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 with a supporting memorandum of law. See Docket Nos. 1, 2. Petitioner did not pay the \$5.00 filing fee for this action or move for leave to proceed in forma pauperis.

By Procedural Order dated September 18, 2020, petitioner was granted 21 days either to pay the filing fee or file a motion for leave to proceed in forma pauperis accompanied by a copy of his prison account statement. See Docket No. 4. The Procedural Order states that failure to comply may result in the dismissal of this action without prejudice. Docket No. 4.

Petitioner has not responded to the Procedural Order and the time to do so expired. Because

petitioner failed to comply with the September 18, 2020 Procedural Order, this action is subject to dismissal without prejudice pursuant to Fed. R. Civ. P. 41(b).

II. ORDER AND RECOMMENDATION

In accordance with the foregoing, Court orders as follows:

1. Because this complaint is subject to dismissal pursuant to Fed. R. Civ. P. 41(b), the undersigned will direct that the case be returned to the Clerk's Office for REASSIGNMENT to a District Judge for dismissal for failure to prosecute.

2. The undersigned recommends that the District Judge to whom this case is reassigned dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b).

III. REVIEW BY DISTRICT JUDGE

Seshan is hereby advised, pursuant to the provisions of Fed. R. Civ. P. 72(b), that if he objects to this recommendation, he must file specific written objections thereto with the Clerk of this Court within 14 days of his receipt of this Report and Recommendation. The written objections must specifically identify the portion of the recommendation or report to which objection is made, and the basis for such objections. See Fed. R. Civ. P. 72. Seshan is further advised that the United States Court of Appeals for this Circuit has repeatedly indicated that failure to comply with Fed. R. Civ. P. 72(b) will preclude further appellate review of the District Court's order based on this Report and Recommendation. See Phinney v. Wentworth Douglas Hospital, 199 F.3d 1 (1st Cir. 1999); Sunview Condo. Ass'n v. Flexel Int'l, 116 F.3d 962 (1st Cir. 1997); Pagano v. Frank, 983 F.2d 343 (1st Cir. 1993).

/s/ David H. Hennessy
David H. Hennessy
United States Magistrate Judge